

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**VICTOR MONTAGNE**

**Plaintiff,**

**vs.**

**THE HOME DEPOT, INC.,**

**Defendant.**

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**Case No.: 08 C 611  
Hon. John Darrah**

**PLAINTIFF'S MOTION TO FILE FIRST AMENDED COMPLAINT JOINING  
ADDITIONAL PARTY DEFENDANT**

Plaintiff, VICTOR MONTAGNE, by his attorneys, BAAL & O'CONNOR, moves this Court to grant Plaintiff leave to file First Amended Complaint, instanter, adding John Doe, an employee of Home Depot Inc and an Illinois Resident, as party-defendant. In support of this motion, Plaintiff states:

1. On September 27, 2007, Plaintiff filed a premises liability action against Home Depot, Inc., (hereinafter "Home Depot").
2. Among the allegations in the original complaint at law, Plaintiff alleged, in part, (6) that defendant's employee caused a wood plank to fall from the rack of pallet, striking Plaintiff in the face and head, causing serious injuries.
3. Since discovery has not taken place yet, Plaintiff did not know the name of Home Depot's employee, and therefore did not name this employee, an Illinois Resident in the original complaint.<sup>1</sup>

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<sup>1</sup> See Complaint at Law, attached hereto and incorporated by reference as Exhibit "A."

4. On January 28, 2008, Jennifer Knobloch, one of Plaintiff's attorneys, contacted the Defendant's office and spoke to attorney Jason Friedl. At that time, Ms. Knobloch informed Mr. Friedl that she was going to ask the Court by oral motion the next day, January 29, 2008, for leave to file First Amended Complaint adding "John Doe, Illinois Resident" as a party-defendant. After Ms. Knobloch informed Mr. Friedl of this, Defendant immediately filed its Petition to Remove in to this Court (which was apparently filed on January 28, 2008).

5. Plaintiff's attorneys were unaware that Defendant filed a Petition to Remove on January 28th; therefore, on January 29, 2008, Plaintiff presented a motion and the Circuit Court granted Plaintiff leave to file the First Amended Complaint, adding the defendant employee, John Doe, an Illinois Resident, who is alleged to directly have caused the board to fall on the Plaintiff in this case.<sup>2</sup>

6. Plaintiff has a factual basis to add the Home Depot employee, John Doe, Illinois Resident, and intended to join him anyway once he learned his actual identity.

WHEREFORE, for the reasons stated in this motion, Plaintiff, VICTOR MONTAGNE, moves this Court to grant leave to file First Amended Complaint instanter and for all such relief as this Honorable Court deems fit.

S/ Bryan J. O'Connor Jr. \_\_\_\_\_  
Bryan J. O'Connor Jr

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<sup>2</sup> See First Amended Complaint at Law, attached hereto and incorporated herein by reference as Exhibit "B".